In the High Court of Judicature at Madras

Dated:04.07.2006

Coram:

The Hon'ble Mr. Justice P. SATHASIVAM

and

The Hon'ble Mr. Justice V. DHANAPALAN

Habeas Corpus Petition No.593 OF 2006

Baratassarady .. Petitioner

vs.

1. The Inspector of Police
   Peria Kalapet
   Pondicherry 14.

2. Mottaiandi
3. Suguna Rani .. Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of writ of Habeas corpus as stated therein.

For petitioner : Mr. T.K. Sampath for
M/s.T.K.Sampath Associates.

For respondents : Mr. K.K. Sashidaran
for Govt., Pleader (Pondy)for R1

Mr. K. Muralidharan for R.2&3

ORDER

(Order of the Court was made by P. SATHASIVAM,J.)

The petitioner, Baratassarady has filed the above petition seeking direction to the respondents for production of the body of his son Pavalan, aged about 2 years before this Court.

2. We heard the learned counsel for the petitioner, learned Public Prosecutor (Pondicherry) for first respondent and learned counsel for respondents 2 and 3.

3. It is represented that the detenu child was born to the petitioner and daughter of respondents 2 and 3 on 04.06.2004. It is also

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stated that their daughter, who is the wife of the petitioner died on 19.01.2006. It is further represented that for the past 15 months the detenu child was with the care and custody of respondents 2 and 3, who are none else than his maternal grand parents. Though we are not under estimating the claim of the petitioner, who is the father of the detenu child, we are of the view that the issue has to be agitated before the appropriate Court by filing petition for custody. Considering the claim made by the petitioner and respondents 2 and 3, we are satisfied that the same cannot be agitated in a habeas corpus petition. Both parties are at liberty to approach the appropriate Court to vindicate their right.

With the above observation, this petition is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To
1. The Inspector of Police,
Peria Kalapet,
Pondicherry 14.

2. The Public Prosecutor, High Court, Madras.

+ 1 CC to the Government Pleader SR NO 28514

+ 1 CC To Mr. K.Muralidharan, Advocate SR NO. 28413

+ 1 CC To Mr. TKS.Sampath, Advocate SR NO. 28372

H.C.P.No.593 of 2006
Dt.04.07.2006

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